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COMMISSION ON HUMAN RIGHTS

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QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING POLICIES OF RACIAL DISCRIMINATION AND SEGREGATION AND OF APARTHEID, IN ALL COUNTRIES, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES: REPORT OF THE SUB-COMMISSION UNDER COMMISSION ON HUMAN RIGHTS RESOLUTION 8 (XXIII)

Written statement submitted by the International Federation of Human Rights, a non-governmental organization in consultative status (category II)

The Secretary-General has received the following communication, which is circulated in accordance with Economic and Social Council resolution 1296 (XLIV).

[30 July 1991]

GE.91-12631/2184H

QUESTION OF ENFORCED OR INVOLUNTARY DISAPPEARANCES

1. It is common international knowledge that Guatemala was the first country in Latin America in which the inhuman practice of enforced or involuntary disappearances appeared and that it is the country in which the highest number of cases in proportion to the population have been recorded in recent decades. According to figures given in the report which the Working Group on Enforced or Involuntary Disappearances submitted to the Commission on Human Rights at its forty-seventh session, Guatemala has the third highest number of cases of enforced disappearances in the world. In that report, the Working Group indicates that 2,972 cases are outstanding, although it should be borne in mind that this figure hardly reflects the real number of disappearances because the great majority of cases are not reported through fear of reprisals, as the Working Group pointed out after its visit to Guatemala in 1987.

2. Guatemalan society continues to suffer from the phenomenon of enforced or involuntary disappearances. Between 1 January and 31 May 1991, 36 cases were documented; the perpetrators continue to be "unidentified, heavily armed men" - in other words, members of the clandestine apparatus of repression.

3. Among these cases attention should be drawn to that of Santos Toj Reinoso, a member of the Runujel Junam Council of Ethnic Communities (CERJ), which occurred on 26 May 1991 in the Department of El Quiché, and that of the social worker Enma Elizabeth Pérez de Cojulún, a professor at the University Centre of the West (CUNOC), which occurred as she was travelling between Escuintla and Quezaltenango on 29 May 1991.

4. The more than 40,000 cases of enforced or involuntary disappearances that have occurred in Guatemala, as estimated by the country's human rights organizations, have remained totally unpunished; this is perhaps the most important factor making for disappearances, as the Working Group on Enforced or Involuntary Disappearances correctly indicated in its above-mentioned report.

5. In the case of Guatemala we must draw attention to the existence of the clandestine apparatus of repression, which works through "unidentified men" as one of the best ways of maintaining and guaranteeing impunity in these crimes against humanity. The clandestine apparatus of repression, according to the conclusions that we can draw from numerous accounts received and stored in the archives of the Guatemalan Commission on Human Rights (CDHG), which is a member of our organization, operates under the direct control of the country's armed forces, which alone can have the criminal intent, the material and human resources and the indispensable protection of the State apparatus needed to carry out the disappearance process, in which victims are arrested without a warrant, taken away and held in clandestine prisons, subjected to cruel, inhuman and degrading treatment and punishment and then, almost always, extrajudicially executed.

6. A further proof of the existence of this clandestine apparatus is the case of Mrs. Lilian Cristina Arenal Tárano de Sandoval, who was temporarily detained shortly after arriving from Chimaltenango, where she lives, by two

unidentified men and a woman in a vehicle with tinted windows in the Colonia Tikal, Guatemala City. The unknown persons took her to a dwelling on the outskirts of the city and interrogated her for several hours on the subject of a person named Mario. When she insisted that she did not know him, the unknown persons said they had made a mistake and took her away in the same vehicle, leaving her at kilometer 29 on the Pan-American Highway, in the administrative area of San Lucas Sacatepéquez. Her case is one of the few in which the victim managed to escape alive.

7. The existence of this clandestine apparatus of repression, a term which we prefer to "death squads" because the latter are not members of the apparatus and operate under a name or acronym specially adopted at a particular time, is an "open secret" in Guatemala, although until very recently only a few organs of the press had referred to it.

8. The absence of any judicial identification of the persons responsible for the disappearances is an obstacle to any investigation: although cases are brought before the courts, they are almost always dismissed because there is no one to accuse. Responsibility for this lies with the Government Procurator's Office, which does not initiate exhaustive investigations, and with the judges themselves, who, generally out of fear, do not require the Procurator's Office to enforce the law. All this helps to perpetuate the impunity.

9. Another phenomenon closely linked to the practice of enforced or involuntary disappearances is the discovery of clandestine cemeteries. A huge number of these have been found in the municipalities of Zacualpa, Chichicastenango, Joyabaj, San Andrés Sajcabajá and Santa Cruz del Quiché, in the departments of El Quiché and Chimaltenango. On 9 June 1991 the National Coordination of the Widows of Guatemala (CONAVIGUA) reported the existence of a clandestine cemetery in the canton of Chuantalá, Chichicastenango, in which the bodies of more than 100 persons who disappeared in the early 1980s are said to be buried.

10. Since its formation seven years ago, the Mutual Support Group (GAM) of relatives of missing persons has been seeking the establishment of a commission to investigate the whereabouts of missing persons. In May 1991 the Office of the Human Rights Attorney set up such a commission, but it did not want national or international non-governmental organizations to form part of it, as had been proposed by GAM.

11. The establishment and entry into operation of this commission in the form requested by the missing persons' relatives will represent progress towards ascertaining the truth and administering justice. In view of the ineffectiveness of the judicial system and the great need to shed light on the fate of thousands of missing persons, it is only right that the Mutual Support Group and other grass-roots and national human rights organizations and international non-governmental organizations should be included in the commission of inquiry, so that they can contribute to the effectiveness and impartiality of the investigation.

12. In view of the foregoing, the International Federation of Human Rights (IFHR), which has recently published a report on the human rights situation in

Guatemala after sending a mission there in April, considers it necessary for the Sub-Commission on Prevention of Discrimination and Protection of Minorities to adopt a resolution in which it expresses, inter alia, its concern at the persistence of the practice of enforced or involuntary disappearances in Guatemala and the absolute impunity with which those responsible for these crimes against humanity are operating. The judiciary should be called upon to initiate and follow through investigations into cases of enforced or involuntary disappearance and other violations of human rights under civilian jurisdiction, regardless of whether those held to be responsible are members of the armed forces. This would help to combat the impunity that is doing so much harm to Guatemalan society.